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Response to Non-Final Office Action
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Application No. 10/813,923

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Customer #35288

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Response to Non-Final Office Action

Priority

The examiner asserts the claim for priority is improper. As previously discussed with the examiner, the instant application was filed on 3/31/2004. This was during the time of pendency of the parent application 10/248,933 which was abandoned on 11/24/2004. Thus the claim for priority is proper.

Drawings

The examiner asserts the buttons claimed in line 2 of claim 1 are not shown. There were no buttons previously or currently claimed in claim 1. The buttons were originally claimed in claim 6. The buttons are claimed as an alternative to the fabric for attaching/connecting the straps. The fabric is shown in the figures thus the objection to drawings are hereby requested to be withdrawn.

Response to 102 Rejections

The examiner asserts claims 1-5, and 7 are rejected under 102 (b) as being anticipated by Tudor. The rejection is improper for only claims 1-5 and 7 were indicated as being rejected; however, the examiner made references to claims 8-14 as well. Applicant assumes claims 8-14 were also intended to be rejected by Tudor.

Tudor is non-analogous art. The invention of the reference is directed to a leg exercise device for restricting the wearer's legs when worn in an upright position. Whereas the invention of applicant is directed to a device for restricting the movement of a wearer's feet when executing a golf swing. The device of Tudor is employed to maintain a wearer's legs in an extended position to develop leg strength. The instant invention is worn to restrict movement of a wear's feet in during a golf swing but allowing for knee-bending. The references are not in the same field nor directed to solving the same problems associated with executing a proper, stabilized golf swing.

The examiner asserts elements 12 with 24 and 25 are equivalent to the adjustment mechanism for adjusting the distance between said forward and rear feet gripping elements. The examiner has mischaracterized the elements of the invention of Tudor. Element 12 is referenced as a waist belt, 24 is a nap segment, and 25 a hook segment. The elements alone or in combination are not equivalent to the stance adjustment mechanism means as presently incorporated in claim 1. Claim 1 has been amended to incorporate means plus function language in which the means for adjusting the distance between the gripping elements which in turn determines the width of the wearer's stance is claimed. It appears elements 24 and 25 are for adjusting the circumference of the waist belt to adjust to fit different sized waists. Element 14 appears to be a strap connecting the waist belt to the foot stirrups. There is no adjustable means or strap

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connected directly to and between the stirrups of both feet for limiting or adjusting the distance between the wearer's feet and for minimizing movement of the wear's feet so as to maintain the wear's feet in a parallel configuration during a golf swing. The device of Tudor is not intended to be employed for executing a well stabilized golf swing with minimal foot movement. However, if the device of Tudor were worn during the execution of a golf swing, it would prevent the wearer from bending his/her knees and would not keep the wearer's feet in a parallel configuration. The feet would be free to move in an outward or inward direction. Furthermore, knee-bending is essential in the execution of a proper golf swing. As such, the teaching of maintaining the legs in an extended position teaches away from the instant invention.

In view of the remarks above and the amendment to claim 1, the rejection of claims 1-5, and 7 are hereby requested to be withdrawn and the claims be indicated as allowable.

The examiner rejects claims 1, 6 and 11-17 under 102(b) as being anticipated by Jackson.

Jackson is directed to a training device including first and second **elastic knee-encircling bands**. The device is for limiting the forward and rearward motion of the knees. On the other hand, applicant's invention is directed to a device for limiting the movement of a wearer's feet. The device of Jackson is employed and attached about a wearer's knees. The device is not employed about one's feet as required of the functional language of instant claims. The claims require means for securing a forward foot and rear foot. Jackson fails to teach or properly suggest that the device may be employed about a golfer's feet rather than knees. As such, the 102 rejection of claims 1, 6, and 11-17 is improper and should be withdrawn.

Applicant does not believe the rejection of the original claims as based upon Jackson is proper. However in order to expedite the allowance of the claims, claim 1 has been amended to incorporate the limitations of claim 2, which were not rejected under Jackson.

As to the method of claim 17, the examiner simply states the method steps would be inherent during the employment of Jackson's device. A 102 reference must teach each element of a claimed invention. The examiner does not indicate or point to any passage within the reference where each step of the claimed method is stated. Furthermore, the device of Jackson is employed about the wearer's knees not feet as required of the method of claim 17. The inherency rejection is improper for it is not inherent that the device employed about a golfer's knees would also be suitable for employing about one's feet.

Conclusion

The remaining claims are 1 and 3-17. Claim 2 has been canceled. Claims 1, 3-6, and 9-17 are amended.

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For reasons above, applicant request all previous rejections be withdrawn and submit all of the remaining claims are in condition for allowance. If the examiner finds that a telephone conference with applicant would expedite the allowance of the claims, the examiner is invited to contact Alvin S. Perry.

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